



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

July 26, 2007

BY ELECTRONIC MAIL AND REGULAR MAIL

Mr. Christopher R.L. Colbourne
Vice President Design and Construction
Masterworks Development Corp.
56 West 45th Street, 4th Floor
New York, N.Y. 10036

Re: July 19, 2007 Memorandum of Understanding for Community Air Monitoring Activities and Revisions to the Specification for Community Air Monitoring of 130 Cedar Street Building and its QAPP

Dear Mr. Colbourne:

The United States Environmental Protection Agency (EPA) has reviewed the draft revisions to the following documents submitted electronically on June 19, 2007 by RJ Lee Group, Inc. (RJ Lee) on behalf of Masterworks Development Corp. (Masterworks): Specification for Community Air Monitoring, Protocol Refinements, dated June 19, 2007; and the Quality Assurance Program Plan (QAPP), Protocol Refinements, dated June 19, 2007. The revisions to these documents pertain primarily to the proposal to use two of the air monitoring stations from the 130 Liberty Street project as a replacement for two of the air monitoring stations already accepted to be used on-site at the 130 Cedar Street project as currently stated in the accepted March 27, 2007 version of the Specification for Community Air Monitoring. RJ Lee also provided EPA a copy of a formal signed agreement dated July 19, 2007 between the owner(s) of the 130 Cedar Street building, the Lower Manhattan Construction and Command Center (LMCCC), and the Lower Manhattan Development Corporation (LMDC) with regard to the use of two of the 130 Liberty Street air monitoring stations. EPA's comments are attached.

The Specification for Community Air Monitoring and the QAPP state that the laboratory data for the two 130 Liberty Street site locations will be submitted to the 130 Cedar Street site “at the same time as the submittal to the 130 Liberty site”. The third paragraph of the July 19, 2007 Memorandum of Understanding (MOU) simply states that LMDC/LMCCC will notify 130 Cedar Street of exceedances from the two 130 Liberty Street community air monitoring stations. It does not state that all validated analytical laboratory data for all the parameters required by the Specification for Community Air Monitoring and the QAPP will be provided to 130 Cedar Street at the same time as it is received by 130 Liberty Street. In addition, EPA (for any exceedances) and the New York City Department of Environmental Protection (NYCDEP) (for asbestos exceedances only) must be notified promptly by 130 Cedar Street via phone and electronic mail of any exceedance of either a target air quality level or an EPA site specific trigger level and must be notified promptly by 130 Cedar Street of any corrective actions taken in connection with a target air quality level exceedance or an EPA site specific trigger level exceedance at the two 130 Liberty Street community air monitoring stations. This should be explicitly stated with regard to the two 130 Liberty Street community air monitoring stations in the Specification for Community Air Monitoring and the QAPP.

The July 19, 2007 MOU states that LMDC/LMCCC agree to share all reports prepared by LMDC’s air monitoring consultants relating to an exceedance. Regardless of the timing of your receipt of any reports relating to an exceedance from LMDC/LMCCC, the owner(s) of the 130 Cedar Street building and its representatives cannot rely on the assessment being conducted for the 130 Liberty Street project by LMDC’s air monitoring consultants for the 130 Cedar Street project. Any exceedances of any of the site specific trigger level parameters at the two 130 Liberty Street community air monitoring stations being used by 130 Cedar Street will result in an immediate stoppage of work at the 130 Cedar Street project while the environmental consultant(s) for the 130 Cedar Street project conduct its own independent evaluation of emission controls, assesses the nature and cause of the exceedance, and ensure corrective actions are taken if the exceedance is determined to be associated with the 130 Cedar Street project, or make its own determination that the exceedance was not attributable to the 130 Cedar Street project. The environmental consultant(s) for 130 Cedar Street would then notify the regulators promptly of any corrective actions taken in connection with a target air quality level exceedance or a site specific trigger level exceedance and submit its own exceedance summary report (for exceedances of the trigger level) independent of LMDC/LMCCC. This should be explicitly stated in the Specification for Community Air Monitoring and the QAPP.

If the regulators determine that the owner(s) and representatives of 130 Cedar Street are not providing all relevant data, not providing prompt notification, or not stopping work promptly based on exceedances at the two 130 Liberty Street community air monitoring stations, the two community air monitoring stations originally proposed and accepted to be used on-site at 130 Cedar Street, and operated by 130 Cedar Street during the background phase, must be re-installed. All work activities at the 130 Cedar Street project would temporarily stop until the two new community air monitoring

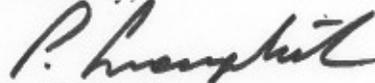
stations are installed, calibrated, and confirmed to be functioning properly. The other community air monitoring stations already present and operating on-site would continue to run and data would be gathered from them while the other two new community air monitoring stations are being installed, confirmed to be operational, and incorporated into the network of community air monitoring stations being used to monitor the 130 Cedar Street project. This should be explicitly stated in the Specification for Community Air Monitoring and the QAPP.

EPA reserves the right to modify the attached comments and/or make additional comments about the proposed work if new information becomes available, or information, currently known and considered, is changed in whole or in part during the abatement and selective demolition project. The attached comments do not pertain to any matters not addressed in the documents reviewed. In the event that the plans for the abatement and selective demolition and/or the MOU have to be supplemented as the project proceeds, the regulators will review and may provide additional comments after we review the supplementary information and documents submitted by Masterworks and/or its environmental consultant(s) or contractor(s).

To explain the revisions to the Draft, EPA requests that Masterworks provide the regulators with a separate response to each of the attached comments that states: (1) whether the comment has been incorporated into the revised draft submission; (2) if a comment has not been incorporated, the reason it was not incorporated; and, (3) any additional information to address Masterwork's response to the attached comments. The supplement will facilitate the regulators' review process. Kindly let us know Masterworks' schedule for submitting the revised draft submission.

Any work beyond the background phase air monitoring and analysis currently being performed should not commence at 130 Cedar Street until EPA accepts your anticipated response to our comments and you have submitted an acceptable complete background phase air monitoring data set.

Sincerely,



Pat Evangelista

WTC Coordinator

New York City Response and Recovery Operations

Enclosure

cc: Sal Carlomagno, NYSDEC w/encl.
Chris Alonge, NYSDOL w/encl.
Krish Radhakrishnan, NYCDEP w/encl.
Richard Mendelson, OSHA w/encl.
Robert Iulo, NYCDOB w/encl.
Max Lee, NYCDOB w/encl.

June 19, 2007 Draft Revised
Section 4.0 - Specification for Community Air Monitoring,
Protocol Refinements:

Subsection 2.0 Environmental Air Monitoring:

1. Masterworks should specify the protocols/procedures on how Masterworks and/or its environmental consultant(s) will be communicating with LMDC/LMCCC, and/or TRC, and/or TRC's labs to ensure that it obtains all of the validated analytical laboratory data results for all of the parameters required by the Specification for Community Air Monitoring and the QAPP from the two 130 Liberty Street community air monitoring stations at the same time as TRC obtains the data. These protocols/procedures should be incorporated into this subsection and subsection 1.0 of Section 8.0, QAPP, or referenced and included as an appendix to these sections. Summary air sampling results for all of the parameters required by the Specification for Community Air Monitoring and the QAPP need to be submitted by 130 Cedar Street weekly in an electronic format suitable to EPA. 24-hour averages and graphical data for direct-read continuous sampling instruments must also be provided by 130 Cedar Street to the EPA on a weekly basis without delay as specified in subsection 6.2, Monitoring Data, of Section 4.0, Specification for Community Air Monitoring.

Subsection 3.0 Community Air Monitoring:

2. This subsection states the following with regard to who is responsible for the sampling and analysis of SVOCs at the two 130 Liberty Street air monitoring stations: "If the highest 24-hour average PM10 particulate concentration for 130 Cedar happens to be at locations #1 or #2 and that location is NOT 130 Liberty's highest 24-hour average PM10 particulate concentration, an agreement has been reached that 130 Liberty will perform the analysis for SVOCs for that site in addition to the site(s) they will analyze per their approved plan."

Based on our reading of the July 19, 2007 MOU, it does not appear that the MOU provides any details on such an agreement having been made between 130 Cedar Street and 130 Liberty Street. The MOU discusses an agreement made with regard to exceedance-related data and the first paragraph of page 2 of the MOU discusses 130 Cedar Street obtaining access to more of the data if it were to provide 130 Liberty Street a written acknowledgement of sharing the cost of collecting such data. However, there is a difference between "access to more of the data collected by LMDC's consultants" and requesting LMDC's consultants to actually conduct an additional analysis for additional parameters at one of the two air monitoring stations that it may not have originally scheduled to analyze. Please specifically define your resolution to this issue in subsection 3.0 of Section 4.0, Specification for Community Air Monitoring, Protocol Refinements.

In addition, 130 Cedar Street will need access to, and obtain, PM10 data for these two air stations to determine if the SVOCs from one of these two air stations may need to be

analyzed for the 130 Cedar Street project. Further, 130 Cedar Street will need access to, and obtain, additional data for all other parameters, besides data pertaining solely to an exceedance of a specific parameter, to make a full independent assessment of the potential source of an exceedance. Please clarify how this data will be obtained and note your resolution to these issues in the Specification for Community Air Monitoring.

Subsections 3.0 Community Air Monitoring and 5.0 Selective Demolition Phase Air Monitoring:

3. These subsections state that community monitoring locations #7 and #8 will be lowered with the scaffold per the demolition schedule. The demolition schedule does not appear to state when community monitoring locations #7 and #8 will be moved. Please provide clarity in subsections 3.0 and 5.0 when these air stations are proposed to be lowered and where the location of the air stations will be once lowered.

Subsection 6.0 Evaluating Results:

4. The newly proposed paragraph following Table 3 states that the laboratory data for the two 130 Liberty Street site locations will be submitted to the 130 Cedar Street site “at the same time as the submittal to the 130 Liberty site”. The third paragraph of the July 19, 2007 MOU simply states that LMDC/LMCCC will notify 130 Cedar Street of exceedances from the two 130 Liberty Street community air monitoring stations. It does not state that validated analytical laboratory data will be provided to 130 Cedar Street at the same time as it is received by 130 Liberty Street. If the language in the subsection is accurate that 130 Cedar Street will be obtaining the data “at the same time”, please provide more specific details within this subsection. Masterworks should specify in these protocols/procedures how Masterworks and/or its environmental consultant(s) will be communicating with LMDC/LMCCC, and/or TRC, and/or TRC’s labs to ensure that it obtains the validated analytical laboratory data results for the two 130 Liberty Street community air monitoring stations at the same time as TRC since prompt notification by 130 Cedar Street to the regulators is required to make a determination if corrective measures need to be made based on an exceedance of the target levels or stoppage of work is necessary based on an exceedance of the trigger levels at the 130 Cedar Street project. These protocols/procedures should be incorporated into this subsection of Section 4.0, Specification for Community Air Monitoring, and subsection 3.4 of Section 8.0, QAPP, or referenced and included as an appendix to these sections.

June 19, 2007 Draft Revised
Section 8.0 – Quality Assurance Program Plan (QAPP),
Protocol Refinements

Subsection 1.0 Introduction:

1. The aforementioned question under subsection 2.0, Environmental Air Monitoring, of Section 4.0, Specification for Community Air Monitoring, with regard to 130 Cedar Street receiving all of the validated data results for all of the parameters required by the Specification for Community Air Monitoring and the QAPP from the two 130 Liberty Street community air monitoring stations at the same time as TRC obtains the data also applies to the revised language added to this subsection of the QAPP. These protocols/procedures should be incorporated into this subsection of the QAPP or referenced and included as an appendix to Section 8.0, QAPP.

Subsection 3.4 Evaluation of Monitoring Results:

2. The aforementioned question under subsection 6.0, Evaluating Results, of Section 4.0, Specification for Community Air Monitoring, with regard to 130 Cedar Street receiving the data “at the same time” also applies to the revised language added to this subsection of the QAPP. Please provide the protocols/procedures that will be followed to ensure that Masterworks and/or its environmental consultant(s) obtains the validated analytical laboratory data results for the two 130 Liberty Street community air monitoring stations at the same time as TRC. These protocols/procedures should be incorporated into this subsection of the QAPP or referenced and included as an appendix to Section 8.0, QAPP.